

315.410 Amendment of solicitations before closing date.

For additional information on amendments to solicitations, see FAR 15.606.

315.413 Disclosure and use of information before award.**315.413-1 Alternate I.**

The Department shall not use Alternate I procedures.

315.413-2 Alternate II.

The Department shall use the Alternate II procedures as modified in this subsection and shall use the provision at 352.215-12, Restriction on Disclosure and Use of Data, rather than the similar provision at FAR 15.215-12 (see 315.407(c)(8)). Any reference in the FAR to the provision at FAR 52.215-12 shall apply to the provision at 352.215-12.

(b) The term *data*, as used in this section and in 352.215-12, refers to trade secrets, business data, and technical data. Trade secrets, within the meaning of 18 U.S.C. 1905, include, for example, processes, formulas, and chemical compositions. Business data includes, for example, commercial information, financial information, and cost and pricing data. Technical data includes, for example, plans, designs, suggestions, improvements and concepts.

The Department recognizes that requests for proposals may require the offeror, including its prospective subcontractor(s), if any, to submit data which the offeror does not want used or disclosed for any purpose other than for evaluation of the proposal. Each proposal containing data which the offeror desires to restrict must be marked on the cover sheet by the offeror with the legend set forth at 352.215-12. Proposals, or portions of proposals, so marked shall be handled in accordance with the provisions of the legend.

(c) Contracting officers receiving proposals which contain restrictive statements or legends not conforming to the referenced provision at 352.215-12 must carefully evaluate the form and substance of the restriction before making a determination to reject the proposal. Deviations in form which do not compromise the Government's rights may be accepted if approved by the activi-

ty's FOI official and the Office of General Counsel, Business and Administrative Law Division.

(e) The Government notice shown in FAR 15.413-2(e) shall be used by this Department and is to be placed on the cover sheet of each proposal or quotation upon its receipt. The Government notice shall be completed by adding the following to the end of the last sentence: "HHSAR paragraph 315.608-72."

(f) The Department sometimes finds it necessary (and in some instances is required by law) to seek evaluation of proposals outside the Department (see 315.608(d)(6)). All conditions required by FAR 15.413-2(f) have been met and are covered in 315.608-72, Procedures for handling and disclosing proposals. In regard to item (f)(1) of FAR 15.413-2, the Department has found that the procedure stated in the first sentence of paragraph 315.608-72 is best and considers it in compliance with the FAR requirement.

(g) See subpart 324.2 for detailed procedures concerning FOIA requests.

[49 FR 13979, Apr. 9, 1984; 49 FR 36110, Sept. 14, 1984, as amended at 51 FR 44294, Dec. 9, 1986]

315.470 Review of RFP.

The principal official responsible for acquisition shall establish procedures to ensure that an independent review of the RFP is made between the time the synopsis is sent to the Commerce Business Daily announcing the availability of the RFP and the release date of the RFP. The individual selected to conduct the review must possess the acquisition knowledge necessary to readily ascertain whether the RFP contains the required information to be in conformance with all laws, regulations, and internal procedures and instructions. The individual selected to conduct the review must be a person other than the preparer of the RFP.

[49 FR 13979, Apr. 9, 1984, as amended at 50 FR 23129, May 31, 1985; 50 FR 38004, Sept. 19, 1985]

315.471 Annual submission of representations and certifications.

Each Principal Official Responsible for Acquisition (PORA) shall determine whether to allow the use of the annual